

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JIM S. ADLER, P.C. and JIM ADLER,	§	
	§	
Plaintiffs,	§	
	§	
V.	§	No. 3:19-cv-2025-K-BN
	§	
MCNEIL CONSULTANTS, LLC D/B/A	§	
ACCIDENT INJURY LEGAL CENTER,	§	
QUINTESSA MARKETING, LLC, D/B/A	§	
ACCIDENT INJURY LEGAL CENTER,	§	
and LAUREN VON MCNEIL,	§	
	§	
Defendants.	§	

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE AND DENYING  
MOTION FOR LEAVE TO FILE AMENDED COMPLAINT**

Defendants filed a Motion to Dismiss Plaintiffs' First Amended Complaint or Motion for More Definite Statement. *See* Dkt. No. 25. On August 10, 2020, United States Magistrate Judge David L. Horan filed Findings, Conclusions, and Recommendation ("FCR"). *See* Dkt. No. 32. Plaintiffs filed both objections to the FCR and an Opposed Motion for Leave to File Amended Complaint on August 24, 2020. *See* Dkt. Nos. 33 & 34.

Judge Horan recommended dismissal with prejudice, apparently because the complaint had been amended once but also because amendment could not cure the defect as a matter of law. But Judge Horan did not specifically address why Plaintiffs

should not be allowed to amend, and Plaintiffs have now filed a motion for leave to file a Second Amended Complaint.

The Court has reviewed the motion to amend along with Plaintiffs' objections, and, based on the reasoning that Judge Horan included in his FCR and that this Court agrees with and accepts, Plaintiffs' federal claim, even as laid out in the proposed Second Amended Complaint, fails as a matter of law because Plaintiffs' claim is based solely on the purchase of Plaintiffs' trademarks as keywords for search engine advertising and Defendants do not include Plaintiffs' trademarks in their advertisements. Plaintiffs do not address either of those issues in their proposed Second Amended Complaint

Accordingly, the Court finds that the Findings and Recommendation of the Magistrate Judge are correct and they are accepted as the Findings, Conclusions, and Recommendation of the Court. The Court grants the Motion to Dismiss, denies as futile the Plaintiff's Opposed Motion for Leave to File Amended Complaint (as to which the Court therefore need not wait for a response), and declines to exercise supplemental jurisdiction over the state law claims.

**SO ORDERED.**

**Signed August 29<sup>th</sup>, 2020.**

  
ED KINKEADE  
UNITED STATES DISTRICT JUDGE